

1 training, obviously through Reid training and
2 through -- withdrawn.

3 You understood through your outside training
4 that obviously, the -- the best way to document an
5 interview with a witness who's willing to be taped
6 is to tape-record it.

7 MR. RUSS: Objection to form. You may
8 answer.

9 THE WITNESS: I don't remember that from the
10 Reid training at all.

11 BY MR. BRUSTIN:

12 Q. Well, I -- I -- I changed it from the
13 Reid training. You're right. The Reid training
14 doesn't teach that.

15 A. Correct.

16 Q. But other training does, right?

17 A. I don't remember that from the Henry
18 Williams association. I went to a homicide seminar
19 in New York City my first or my second year with
20 Detective Vickerd, and there was no discussion
21 about tape-recording.

22 Q. Okay. But certainly you understood as
23 a matter of common sense that the best way to
24 accurately -- accurately document what you said and
25 what a witness said is to tape-record it, correct?

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1 MR. RUSS: Objection to form. You may
2 answer.

3 THE WITNESS: That would be a good -- good
4 practice.

5 BY MR. BRUSTIN:

6 Q. All right. And could you think of any
7 reasons in -- in 1991 not to do that?

8 I know you chose not to do it, but any
9 reasons you can think of as to why you wouldn't do
10 it?

11 A. No.

12 Q. You just didn't.

13 A. We just didn't. I wasn't trained to do
14 it, and I didn't do it.

15 Q. Okay. Now, I asked you some questions
16 about the layout of the homicide unit, and I want
17 to ask you just a few more questions.

18 The way that Masecchia described the
19 homicide unit in '91 was that it was probably
20 smaller than a classroom, the main room big enough
21 to fit eight or nine desks.

22 Does that sound about right?

23 A. Little bit larger.

24 MR. RUSS: Objection to form. You answered.

25 BY MR. BRUSTIN:

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1 Q. Larger than a typical classroom or a
2 size of a typical classroom?

3 Was it -- in your view, was it larger than a
4 typical classroom, the size of a typical classroom?

5 A. I thought it was --

6 MR. RUSS: Objection to form. You may
7 answer.

8 THE WITNESS: I thought it was larger.

9 BY MR. BRUSTIN:

10 Q. Okay. But certainly there was no
11 privacy in that main room, fair to say?

12 A. You are correct.

13 Q. In other words, if you wanted to have
14 any privacy, you had to either -- you could go
15 into -- in -- in the interview room, correct?

16 A. Yes.

17 Q. Or sometimes you could borrow one of
18 the supervisors' offices for an interview.

19 A. Yes.

20 Q. Otherwise, there was no privacy.

21 A. Well, you could go out into the hall,
22 too.

23 Q. Okay. But in -- in that room, there
24 was no privacy.

25 A. No.

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1 Q. And you certainly -- withdrawn.

2 And certainly as a detective -- homicide
3 detective sitting in the homicide office, to the
4 extent any witness or suspect ever was brought into
5 the interview room, you would obviously be able to
6 see that.

7 A. Sometimes yes and sometimes no.

8 Q. Well, how would you not see it?

9 A. If you were in a different room. You
10 could be in a command officer's room. There were
11 other interview rooms. There was more than one
12 interview room.

13 Q. Okay.

14 A. You could have your head down answering
15 a phone.

16 Q. Right. Certainly within view if you're
17 in that office.

18 A. Absolutely.

19 Q. All right. And one of the things that
20 stuck out to me about how homicides were
21 investigated in Buffalo is that multiple detectives
22 would be involved in each homicide investigation.

23 Is that a fair characterization?

24 A. It is.

25 MR. RUSS: Objection to form. You may

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1 answer.

2 THE WITNESS: It is.

3 BY MR. BRUSTIN:

4 Q. And so that suggests to me that
5 multiple detectives would have knowledge about all
6 of the homicides they were working on, fair to say?

7 MR. RUSS: Objection to form. You may
8 answer.

9 THE WITNESS: That became a little bit
10 difficult in that -- in that -- that time period.
11 There was a lot going on.

12 BY MR. BRUSTIN:

13 Q. .okay.

14 A. Our homicides were almost tripled in
15 the amount.

16 Q. In what year?

17 A. '91.

18 Q. Okay. So '91 was a busy year?

19 A. Oh, yes, it was a real big year.

20 Q. But certainly because you were all
21 working on cases, you would all -- as friends and
22 colleagues, would be discussing the various work
23 you were doing on different cases with one another.

24 A. Sometimes yes and sometimes --
25 sometimes no.

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1 Q. And one of the things that you would do
2 in Buffalo, like any police department, is when you
3 were sitting in the homicide office with other
4 detectives, you would discuss with them, for
5 example, what you were learning on particular
6 cases, correct?

7 MR. RUSS: Objection to form. You may
8 answer.

9 THE WITNESS: Yes.

10 BY MR. BRUSTIN:

11 Q. You would get their takes on your
12 theories of the case and their theories of the
13 case, correct?

14 A. Yes.

15 Q. Sharing information with other homicide
16 detectives and police officers was a critical part
17 of your job as a homicide detective, correct?

18 A. Yes.

19 Q. Now, is it also true that although they
20 weren't official, homicide detectives also
21 unofficially worked with partners?

22 MR. RUSS: Objection to form. You may
23 answer.

24 THE WITNESS: Sometimes you would; sometimes
25 you would not.

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1 BY MR. BRUSTIN:

2 Q. So for example, I understood that in
3 this case, like many cases, Lonergan and Vickerd
4 were working unofficially as partners.

5 Was that your understanding?

6 A. Correct.

7 Q. And that Lonergan was higher ranked.

8 A. He was a sergeant.

9 Q. And so in actuality, Lonergan was
10 actually a supervisor of all of the detectives
11 working on the case.

12 A. On that particular tour of duty.

13 Q. And on this particular case.

14 A. That's not the chain of command as I --
15 as I understand it.

16 Q. Well, let me ask you this:

17 Was -- was Lonergan in the same supervisory
18 role in Dixon as he was in Ortiz?

19 A. He was --

20 MR. RUSS: Objection to form. You may
21 answer.

22 THE WITNESS: He was a sergeant.

23 BY MR. BRUSTIN:

24 Q. So you reported to Lonergan in Ortiz,
25 correct?

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1 A. I reported to him, yes.

2 Q. Did you report to Lonergan in Dixon?

3 A. In -- in which case?

4 Q. This case.

5 A. Yes.

6 Q. Okay. So in other words, Lonergan had
7 the same supervisory responsibilities over you in
8 the Jackson investigation as he did in the Ortiz
9 investigation.

10 A. Correct.

11 MR. RUSS: Objection to form. You may
12 answer.

13 BY MR. BRUSTIN:

14 Q. Who was your partner in 1991, if you
15 had one?

16 A. I had five or six of them.

17 Q. Who were you working as a partner, if
18 anybody, on this case?

19 A. I would not be able to remember who
20 that I could say. It was ad hoc. It all depended
21 on what came in and what manpower was available.

22 Q. How old were you in -- strike that. I
23 can figure it out, too, but maybe you remember.

24 How old were you in 1991?

25 A. I was born in 1950, so I was 41 years

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1 old.

2 Q. Okay. Had you started applying to be a
3 detective or -- or seeking to be a detective before
4 1986 when you were promoted?

5 When did you first start applying to be a
6 detective?

7 A. I didn't apply. I was promoted to be a
8 detective from an arrest that I made.

9 Q. Was -- was detective always one of your
10 goals when you joined the force?

11 A. It was one of my goals, yes.

12 Q. And my understanding as to how things
13 worked in this case and all cases in 1991 was that
14 the first detective at the scene would be
15 designated the lead detective. Is that right?

16 A. We don't have lead detectives, or I
17 don't think that they do.

18 Q. Okay. So --

19 A. A supervisor would arrive --

20 Q. Okay.

21 A. -- and direct the detectives as to what
22 their duties are.

23 Q. Okay. So, for example, in this case,
24 to your knowledge, there was no lead detective.

25 A. I don't think so. I -- I did not

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1 respond to the scene. I -- I received a -- a call
2 from the shift officer, who was Lieutenant William
3 Smith, to report to the homicide bureau to take
4 statements from witnesses.

5 We had multiple witnesses that night. A
6 lot.

7 Q. I understand. I'm asking a different
8 question, I think.

9 A. I -- I can't answer your question. I
10 wouldn't --

11 Q. I -- I think you can.

12 MR. RUSS: Let him try again.

13 THE WITNESS: All right.

14 BY MR. BRUSTIN:

15 Q. Let me try it again.

16 A. Go ahead.

17 Q. As far as you understand it, based on
18 your memory --

19 A. All right.

20 Q. -- and your review of documents, you
21 don't believe there was any lead -- there was any
22 detective assigned as lead detective in this case,
23 correct?

24 A. I would be -- I would have to say it
25 would be Detective Sergeant Lonergan.

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1 Q. Okay. But that was -- that -- if there
2 was -- to the extent there was any designation,
3 it -- it didn't -- it didn't add any additional
4 responsibility on Detective Lonergan; is that fair
5 to say?

6 A. Correct.

7 Q. In other words, you had, to your
8 knowledge, the same obligation to investigate this
9 case as he did.

10 A. Correct.

11 Q. And so the way it worked in Buffalo is
12 that, whether you were designated lead detective or
13 you were just a detective like you who was
14 conducting investigative activities, you had the
15 same obligation to, for example, ensure that you
16 were documenting any possibly exculpatory evidence,
17 correct?

18 MR. RUSS: Objection to form. You may
19 answer.

20 THE WITNESS: Correct.

21 BY MR. BRUSTIN:

22 Q. And that that information made its way
23 to the file, correct?

24 A. Correct.

25 Q. And that that information -- withdrawn.

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1 And you had the same obligation as -- as a
2 lead detective to make sure that any relevant
3 information that you gathered in the case was
4 provided expeditiously to other detectives
5 investigating the case.

6 A. Correct.

7 Q. And you would agree that in a homicide
8 investigation, knowledge about what's been gathered
9 thus far is key.

10 A. It's very important.

11 Q. You want to -- when you're conducting
12 any meaningful part of a homicide investigation,
13 you want to have as much knowledge as you can about
14 what's been gathered before that time, correct?

15 A. Correct.

16 Q. Particularly in regard to the subject
17 matter that you're investigating.

18 A. Correct.

19 Q. So for example, if you are interviewing
20 a witness, an eyewitness, potential eyewitness in a
21 homicide, you make it your business to learn as
22 much as you can about what information that witness
23 has already provided before your meeting with them,
24 correct?

25 A. Sometimes you do it cold. I mean, I'd

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1 just meet with a person, and they tell me what they
2 viewed --

3 Q. Right.

4 A. -- what they saw.

5 Q. Well, certainly as a -- if you're
6 taking a statement from a witness, you understood
7 through training and procedure that it was
8 important, if you could, to ascertain what
9 information that witness has provided before in the
10 case.

11 MR. RUSS: Objection to form. You may
12 answer.

13 THE WITNESS: Sometimes it happened after
14 the statement was taken, because there were
15 detectives at the scene.

16 BY MR. BRUSTIN:

17 Q. All right. But certainly you
18 understood it was your obligation to learn it as
19 soon as you could.

20 A. Correct.

21 MR. RUSS: Objection to form. You may
22 answer.

23 THE WITNESS: Correct.

24 BY MR. BRUSTIN:

25 Q. That's just a basic detective duty,

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1 correct?

2 A. Correct.

3 Q. And because there were these sort of
4 group investigations in Buffalo in homicide in
5 1991, one of the things that homicide detectives
6 did is you made it your business to know which
7 other detectives were working on the case you were
8 working on, correct?

9 MR. RUSS: Objection to form. You may
10 answer.

11 THE WITNESS: Correct.

12 BY MR. BRUSTIN:

13 Q. Because those are the detectives that
14 you wanted to be discussing the evidence that you
15 were gathering and they were gathering, correct?

16 A. Yes.

17 Q. That's how you solve crimes, correct?

18 A. Yes.

19 Q. And there are a variety of ways that
20 you -- that you communicated with fellow homicide
21 detectives during the course of an investigation,
22 correct?

23 A. Yes.

24 Q. One way was -- probably the -- the --
25 the largest way were the informal communications

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1 that you had in the office and -- and on the street
2 about what you were gathering, correct?

3 A. Yes, sir.

4 Q. Another way would be through
5 comprehensive and expeditious P73s.

6 A. Yes.

7 Q. Another way would be through
8 comprehensive and expeditious witness statements.

9 A. Yes.

10 Q. Making sure that those things made
11 their way to the file so that officers working on a
12 homicide could learn about them, correct?

13 A. Yes.

14 Q. And it was particularly important to
15 make sure, if possible, that that information that
16 you were gathering made its way into the file or to
17 other officers on shift changes, correct?

18 A. If they were present, yes.

19 Q. You understood that it was very
20 important for you to make sure that, to the extent
21 a detective came on the next shift that was
22 investigating a homicide you were working on, they
23 were up to speed on the information that had been
24 gathered on your shift.

25 A. Yes.

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1 Q. And oftentimes in Buffalo, I take it,
2 like other police departments, if that meant
3 staying a little later, you would do that.

4 A. Yes.

5 Q. Was it easy to get overtime, by the
6 way, in '91 in the homicide unit if you needed it?

7 A. There was always overtime in the
8 homicide squad.

9 Q. Never a problem getting -- getting
10 overtime?

11 A. Well, not -- not getting it. It was --
12 you were ordered to come in and take statements.

13 We went into an on-call system. We weren't
14 happy about it. We wanted more manpower, but they
15 gave us that -- it wasn't our decision. If the
16 homicide happened after two o'clock in the morning,
17 we were called in.

18 Q. Got you. But there are some police
19 departments I know that -- that the brass pushes
20 back on detectives working overtime. I take it
21 that wasn't the situation in Buffalo.

22 A. Sometimes -- it -- it ran into periods,
23 and I think it was all because of a budget.

24 Q. Okay.

25 A. Sometimes they would say you're not

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1 working overtime, and sometimes they would want you
2 in. It all depended on who the commissioner was at
3 that time also.

4 Q. Fair enough. In '91, it sounds like
5 overtime wasn't a problem. You -- you were
6 often -- you were often ordered to do it, and if
7 you needed to do it, you could get permission to do
8 it.

9 A. We did -- yes, you are correct.

10 Q. Did you work a lot of overtime in '91?

11 A. No.

12 Q. I take it one of the reasons is you had
13 other responsibilities.

14 A. I did have other responsibilities, yes.

15 Q. Including your investigations business.

16 A. I had a personal life, yes, and a
17 business.

18 Q. Did you have any other outside
19 employment in 1991 other than your investigation
20 business?

21 A. In '91, I would say no.

22 Q. Now, one of the things that Detective
23 Masecchia told us is that the supervisors in
24 homicide didn't micromanage the detectives day to
25 day. They trusted you to do your jobs by 1991.

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1 Would you agree with that characterization?

2 A. I do.

3 MR. RUSS: Objection to form. You may
4 answer.

5 THE WITNESS: I do.

6 BY MR. BRUSTIN:

7 Q. And in fact, would it be fair to say
8 that the -- that the supervisors, including
9 Sergeant Lonergan, were more resources for you than
10 micromanagers?

11 A. I -- I don't understand resources.
12 I'm -- I'm -- I'm not following --

13 Q. Sure.

14 A. -- your question.

15 Q. That they were there to help you and
16 support you in your investigations as opposed to
17 look over your shoulder as to what you were doing.

18 A. Again, I go back to the chain of
19 command. We had a sergeant; we had a -- a chief;
20 we had an assistant chief, a lieutenant, and a
21 captain assigned there.

22 Not only would we go to the sergeant, we had
23 an opportunity to go to a -- a lieutenant, a chief,
24 an assistant chief, or the actual chief.

25 Q. I think you're answering my question.

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1 A. I -- I am, but I'm -- I'm not answering
2 exactly the way you're -- you're asking it, I'm
3 sorry.

4 Q. No, that's fair, but -- but the -- the
5 counter to that is that although you could go to
6 all those people as a resource to ask for help, to
7 ask questions, they weren't micromanaging what you
8 were doing on a day-to-day basis, correct?

9 A. No, they did not.

10 Q. They trusted you to do your job.

11 A. You are correct.

12 Q. You had a great deal of discretion as
13 to how to do your job.

14 A. Correct.

15 Q. Nobody was watching your witness
16 interviews, for example.

17 A. No.

18 Q. Nobody was watching your
19 interrogations, correct?

20 A. No.

21 Q. Nobody was watching to make sure that
22 you were accurately writing down the words that you
23 spoke to a witness and the words that a witness
24 spoke to you.

25 A. You are correct.

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1 Q. That was left to your good discretion.

2 MR. RUSS: Objection to form. You may
3 answer.

4 THE WITNESS: Yes.

5 BY MR. BRUSTIN:

6 Q. And during the time that you were a
7 police detect -- during the time that you were a
8 homicide detective, nobody, no supervisor, ever
9 criticized you in connection with how you were
10 conducting, for example, witness interviews,
11 correct?

12 A. On interviews?

13 Q. Yes.

14 A. No.

15 Q. And nobody ever provided any criticism
16 to you about how you were documenting interviews,
17 correct?

18 A. The -- the people that I learned from,
19 the old detective sergeant and the old homicide
20 detectives that were tenured, we learned from them,
21 and sometimes they would say you might want to ask
22 a question in a different manner.

23 Q. Okay.

24 A. As a teaching matter.

25 Q. That's fair. Certainly by 1991 when

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1 you were an experienced police officer, from that
2 time on, nobody ever criticized how you were
3 documenting interviews, correct?

4 A. That's correct.

5 Q. And nobody ever criticized how you were
6 conducting interrogations.

7 A. Correct.

8 Q. Or how you were documenting
9 interrogations.

10 A. Correct.

11 Q. You received nothing but positive
12 feedback from your supervisors concerning those
13 activities.

14 A. Correct.

15 Q. That would include in this case, the
16 Dixon case?

17 A. Correct.

18 Q. That would include the Epps case?

19 A. Correct.

20 Q. That would include the DeJac case?

21 A. Correct.

22 Q. That would include the Ortiz case.

23 A. Correct.

24 Q. In fact, it's your understanding that
25 to this day, your supervisors, including Lonergan,

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1 believe that you conducted those -- all four of
2 these investigations conscientiously and ethically,
3 correct?

4 MR. RUSS: Objection to form. You may
5 answer.

6 THE WITNESS: Well, I did not -- I did not
7 go to the scene on Epps. I was not assigned to
8 Epps. I believe I took one statement from a
9 witness on Epps.

10 The other three I was active in.

11 BY MR. BRUSTIN:

12 Q. Okay.

13 A. But Epps I had no -- to this day I'm
14 still kind of in a fog as to what's going on
15 with -- with Mr. Epps.

16 Q. Maybe I can clear it up for you today.
17 I've got a bunch of questions for you.

18 Let me ask you a little bit about the role
19 of the District Attorney in criminal
20 investigations. First of all, typically in a
21 homicide -- withdrawn.

22 I take it that in '90 -- 1991, you said the
23 homicide unit was very busy.

24 A. We were.

25 Q. And I take it that the homicide

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1 prosecutors were also very busy.

2 A. They were.

3 Q. The homicide prosecutors didn't have
4 the time or the resources to micromanage your
5 investigations, fair to say?

6 A. I would say that's accurate.

7 Q. And typically in a homicide case, the
8 DA's office wouldn't even get involved until after
9 an arrest was made.

10 A. No.

11 Q. Well, that's -- that was -- that was
12 true in this case, correct?

13 A. No. Before we -- we charged anybody or
14 before we let anybody go, they came over and
15 reviewed the file. The District Attorney did.

16 Q. Before an arrest was made?

17 A. Before an arrest was made.

18 Q. Okay. Do you remember that happening
19 in this case?

20 A. Absolutely.

21 Q. Who was the DA that came?

22 A. That's -- that's the only thing I'm not
23 sure. It had to be one of two people. It had to
24 be Detect -- Acting Detective (sic) Christopher J.
25 Belling, B-E-L-L-I-N-G, or it would be Judge now

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1 Frank Sedita, S-E-D-I-T-A.

2 But they would come over before we made an
3 arrest and then advise us you have enough to arrest
4 or you have to let him go, and not only would they
5 advise us that we had enough to make the arrest,
6 they would tell us specifically what charge to put
7 on the person.

8 In other words, whether it be manslaughter,
9 murder, murder one, murder two, assault.

10 Q. Okay.

11 A. But they would review the file. If
12 they gave us the okay, instruct us to make the
13 arrest, we would then make the arrest.

14 Q. All right. So you --

15 A. In 1991.

16 Q. Okay. So you -- do you recall sitting
17 in a room today with a DA in connection with this
18 case at the time of the arrest?

19 A. At the time of the arrest, there was a
20 DA that -- that reviewed -- yes.

21 Q. I want to -- I want to be very clear.

22 A. Okay.

23 Q. Some of the things -- you have a very
24 good memory, but I want you to be clear as to what
25 you actually remember and what you understand to

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1 have happened because that's how things worked.

2 A. Correct.

3 Q. So my first question is:

4 Do you remember today sitting in a room with
5 a DA in connection with the arrest in this case?

6 A. Yes.

7 Q. Who did you -- who were you sitting
8 with?

9 A. I'm not sure.

10 Q. All right. And I take it at that time,
11 you -- at that time, you would make sure, in order
12 to talk to the DA about the arrest, to familiarize
13 yourself with all the evidence that was gathered in
14 the case.

15 A. You are correct. We did not make any
16 arrest during this time period unless the District
17 Attorney gave us permission.

18 Q. So --

19 A. You are correct.

20 Q. So -- you've been good about this, but
21 I just want to tell you:

22 Please, if you can, because we've got a lot
23 to do today, if you could just try to answer the
24 question I'm asking.

25 MR. RUSS: He's doing the best he can.

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1 BY MR. BRUSTIN:

2 Q. I think you are. All I'm asking you
3 is: From -- before you met with the DA, in order
4 to properly advise the DA, you familiarized
5 yourself with all the evidence that had been
6 gathered in the case, correct?

7 A. No.

8 Q. You didn't read the file before you met
9 with the DA?

10 A. I went on what the information was that
11 was presented to me at the time on this particular
12 case.

13 Q. That's what -- that's what I'm asking
14 you, sir. You would look at the evidence that had
15 been gathered up to the point in time of the
16 arrest, correct?

17 A. Correct.

18 Q. Because you knew that when the -- the
19 busy DA came to authorize the arrest, they were
20 going to be asking you questions about what the
21 evidence was that was gathered, correct?

22 A. Yes.

23 Q. And so you made sure that before you
24 met with the DA concerning the arrest, you were
25 fully familiar with all of the evidence that had

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1 been gathered to that point in time.

2 A. Correct.

3 Q. And you understood it was your
4 obligation, when meeting with the DA in connection
5 with the arrest, to tell them the good and the bad,
6 right?

7 A. Correct.

8 Q. So in other words, if you had any -- if
9 you had gathered any evidence suggesting that a
10 witness was unreliable or that you may have the
11 wrong suspect, you had an absolute obligation to
12 provide that information to the DA, correct?

13 MR. BLENK: Form.

14 THE WITNESS: Yes, sir.

15 BY MR. RUSS:

16 Q. And you took that obligation very
17 seriously, correct?

18 A. I do.

19 Q. You didn't just rely on the DA to
20 ascertain that in the 10 or 15 minutes they were
21 there from reading reports. If you knew there were
22 problems, you had an obligation to tell them about
23 it, correct?

24 MR. BLENK: Form.

25 THE WITNESS: Yes, that's correct.

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1 BY MR. BRUSTIN:

2 Q. Now, would it be fair to say that you
3 had a -- you were friends in 1991 with Lonergan and
4 Vickerd and Masecchia?

5 A. Yes, that's accurate.

6 Q. And you worked many cases together.

7 A. Yes.

8 Q. And you were very comfortable talking
9 to one another about evidence that you were
10 gathering and thoughts you had on a case, correct?

11 A. Yes.

12 Q. There was no ego involved. You shared
13 information openly.

14 A. Yes.

15 Q. What was -- in 1991, what was the form
16 of communication you used with those officers when
17 you were in different places?

18 Was it radio? You didn't have cell phones
19 then, right?

20 A. We had cell phones and pagers.

21 Q. Okay.

22 A. And communications face-to-face,
23 talking on a telephone, or meeting with them.

24 Q. Now, I asked you some questions earlier
25 about policies and procedures relating to

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1 identification procedures. Do you recall that?

2 A. Yes.

3 Q. Do you recall that?

4 A. Yes.

5 Q. Just want to ask you a few more
6 questions about it.

7 A. That would be fine.

8 Q. In addition to the rules regarding no
9 suggestion in ID procedures, you also understood in
10 1991 that you had an absolute obligation to write
11 down any comments or statements that the witness
12 made in connection with their ID, correct?

13 A. Yes, sir.

14 Q. So --

15 MR. RUSS: In -- in a -- in a lineup or
16 something?

17 MR. BRUSTIN: Either a lineup or a photo
18 array.

19 BY MR. BRUSTIN:

20 Q. That's what we're talking about now.

21 A. Yes, sir.

22 Q. Okay. You've already told us those are
23 the ones you can only -- you can only use those two
24 except for very limited circumstances, right?

25 A. Correct.

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1 Q. All right. So when you're doing a
2 lineup or an ID -- or a photo array, a live lineup
3 or a photo array, you understood that it was
4 critically important for you to document the words
5 they spoke in connection with the ID, correct?

6 A. Yes.

7 Q. So for example, if a witness says,
8 "That's the guy that shot," you write that down.

9 A. You are correct.

10 Q. But if the witness says, "I'm not sure
11 if that's the person," you have to write that down,
12 too.

13 A. That's correct.

14 Q. And it's never permissible to try to
15 encourage them -- withdrawn.

16 Saying -- a witness saying, "That looks like
17 the guy" is what's called a tentative
18 identification, correct?

19 A. You are correct.

20 Q. "That is the guy" is a positive
21 identification.

22 A. You are correct.

23 Q. A positive identification provides
24 probable cause for arrest.

25 A. Correct.

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1 Q. A tentative identification is just a
2 lead, nothing more.

3 A. Strong lead, I believe. Yes, you are
4 correct.

5 Q. It's -- it's not probable cause.

6 A. Combined with other things, it could
7 be.

8 Q. Are you sure about that?

9 A. No, I'm not.

10 Q. In any case, as -- you're strictly
11 prohibited as a detective from attempting to
12 convince a person who makes a tentative
13 identification that it should be a positive
14 identification, correct?

15 A. You are correct.

16 Q. That's about as basic as it gets for a
17 detective, right?

18 A. That is basic. You are -- you are
19 correct.

20 Q. Now, I think you've also told us this,
21 but I want to make sure:

22 Prior to -- prior to Emil Adams identifying
23 Valentino Dixon in the photo array procedure that
24 you were present for, you had never heard the name
25 Valentino Dixon before.

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1 A. I had never heard his name ever before
2 that happened.

3 Q. Okay. And the first -- the -- the
4 first time you learned of Valentino Dixon's name is
5 when Vickerd -- Vickerd came back after you had
6 interviewed Emil Adams and put together a photo
7 array with Valentino Dixon in it, correct?

8 A. I don't know who put the photo array
9 together.

10 Q. I can represent to you that he -- that
11 he testified that -- that's in the record.

12 A. Okay. I -- I would have to say you're
13 correct, but I don't know who put the array
14 together.

15 Q. All right. But the first knowledge
16 that Valentino Dixon was a suspect and the first
17 knowledge of him as a person was when the photo
18 array was shown to Emil Adams, correct?

19 A. You are correct.

20 Q. Now, at that time, you obviously,
21 either you or somebody else, did a -- a check into
22 Valentino Dixon and who he was, correct?

23 A. I believe a check was done. You are
24 correct.

25 Q. All right. And you came to learn that

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1 Mr. Dixon had some prior arrests.

2 A. He did have multiple arrests, yes.

3 Q. And you learned that that night.

4 A. I don't know if I learned it that
5 night. I don't think that was in the file at that
6 point. I don't know when that was done, but it --

7 Q. Well --

8 A. -- it became apparent that it -- it was
9 into the file.

10 Q. All right. So even after -- let me be
11 clear. Even after Valentino Dixon was -- well, let
12 me -- let me start this way:

13 Fair to say that you did not know anything
14 about Valentino Dixon's drug dealing or prior
15 arrests until after he was arrested.

16 A. I did not know about his drug dealing;
17 however, I did learn about his arrests.

18 Q. Okay. So sometime after he was
19 identified but before he was arrested, you learned
20 about his prior arrests.

21 A. I don't know if it was before the
22 arrest.

23 Q. That's what I'm asking.

24 A. Yes, I'm -- I'm not sure on that.

25 Q. Okay.

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1 A. I am 100 percent not sure on that.

2 Q. All right. But what you are sure of is
3 that you didn't know anything about Valentino Dixon
4 being a drug dealer until after he was arrested.

5 A. That is correct.

6 Q. And you don't even know -- you don't
7 know one way or another whether you learned
8 anything about his prior arrests until after he was
9 arrested.

10 A. You are correct.

11 Q. So your knowledge of Valentino Dixon at
12 the time he was identified by Emil Adams was a
13 blank slate.

14 A. At that point, yes.

15 Q. And you believe your knowledge of
16 Valentino Dixon at the time he was arrested may
17 have been a blank slate. It was only after that
18 you learned about his criminal history.

19 A. Correct.

20 Q. And when you first learned the name
21 Valentino Dixon, you'd never heard of him before.

22 A. No.

23 Q. And certainly not until the time of
24 arrest did anybody else describe any interaction
25 with him on the street or who he was?

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1 A. No.

2 Q. Just another guy who was a suspect in
3 this case.

4 A. Correct.

5 Q. What did you learn about Valentino
6 Dixon after he was arrested?

7 A. Just that he was involved in drugs and
8 that he was arrested for either weapons or a
9 shooting offense.

10 Q. Okay.

11 A. That was it.

12 Q. You didn't learn anything else about
13 what kind of drug dealer he was, where he operated,
14 anything like that. What kind of a drug dealer he
15 was, what kind of quantities he -- he was involved
16 with, where he dealt from.

17 A. Well, my focus was on homicide, not on
18 his background.

19 Q. I'm just asking what you knew.

20 A. I did not know anything.

21 Q. Okay. And the reason is because your
22 focus was on the homicide.

23 A. Correct.

24 Q. Not on who Valentino Dixon was or
25 anything about him.

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1 A. I wanted to know about him, but no,
2 I -- I just didn't focus in on what you're talking
3 about.

4 Q. Okay. Frankly never, right?

5 A. Well, I knew about him, but I never
6 focussed in on him.

7 Q. Okay. So throughout your involvement
8 in this investigation even after the arrest, you
9 knew generally that he was some kind of a drug
10 dealer, right?

11 A. Yes.

12 Q. No idea where he operated from.

13 A. No.

14 Q. No idea what kind of quantity he dealt
15 with.

16 A. No.

17 Q. No idea who he worked with.

18 A. No.

19 Q. You knew generally that he had some
20 prior arrests for assault and weapons charges.

21 A. And a weapon also, yes.

22 Q. Nothing more specific than that about
23 who was involved or anything like that. Nothing
24 more specific about the -- nothing more specific
25 about those charges.

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1 A. I think there were some marijuana
2 charges in there, like a possession, like being on
3 the street or some other possession charges, but I
4 don't -- I don't -- I don't specifically --
5 specifically recall what they were.

6 Q. Okay. And so throughout your time in
7 this investigation, you never learned from any
8 source that Valentino Dixon was a target of the
9 Buffalo police for his drug-dealing activities.

10 A. I did not learn that.

11 MR. BRUSTIN: All right. Let's take a --
12 just a couple-minute break.

13 MR. RUSS: Sure. Whatever you want.

14 MR. BRUSTIN: I think we'll take a lunch at
15 one, if that's okay with you guys.

16 (Off the record: 12:09 p.m.)

17 (On the record: 12:17 p.m.)

18 BY MR. BRUSTIN:

19 Q. Okay. Detective, let's take -- let's
20 start with -- I'm going to now talk about your
21 involvement in the case.

22 A. I'm sorry?

23 Q. I'm going to -- I want to start talking
24 about your involvement in the case.

25 A. Okay.

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1 Q. So let's take a look at Exhibit 2, page
2 25.

3 MR. RUSS: Same thing, BPD?

4 MR. BRUSTIN: Yes, please.

5 BY MR. BRUSTIN:

6 Q. Okay. And I take it that this is a
7 document that you -- you reviewed in preparation
8 for today?

9 A. Yes, sir.

10 Q. And this is your first P73 in the case,
11 correct?

12 A. It is.

13 Q. And as this indicates, you didn't get
14 the call on this case until more than an hour after
15 the shooting, correct?

16 A. I believe so, yes. An hour after.

17 Q. And the first thing you did is you
18 reported to the homicide office.

19 A. You are correct.

20 Q. And the first thing that you did was
21 you took a statement from a witness.

22 A. Correct.

23 Q. And it appears from this -- from this
24 document -- you tell me if I'm wrong -- that you
25 were brought Emil Adams by Detective Lockwood,

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1 correct? The second paragraph.

2 A. Commissioner Lock -- he was an acting
3 detective at the time. He retired as our
4 commissioner.

5 Q. Okay. And so -- but I'm -- reading
6 into this document, my understanding of it is that
7 given that there's no report in the file from the
8 Detective Lockwood interviewing Emil Adams, he
9 simply brought him to you.

10 A. He transported him, yes.

11 Q. Okay.

12 A. You are correct.

13 Q. So you were the first person to
14 interview Emil Adams.

15 A. Correct.

16 Q. And that was your first action on the
17 case.

18 A. Correct.

19 Q. And it was before you had probably any
20 information about what had transpired other than
21 there was a shooting, correct?

22 A. I had a shooting, and I had knowledge
23 that there were multiple people shot at the scene
24 and that one was deceased.

25 Q. All right. No idea whatsoever that --

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1 who the suspects were, nothing like that, correct?

2 A. None whatsoever.

3 Q. All right. So this is -- your first
4 activity is to take a statement from Emil Adams
5 with very little information about what's
6 transpired in the investigation to that point in
7 time, correct?

8 A. You are correct.

9 Q. And then the next thing that you did
10 after you took a -- after you took a sworn
11 statement from -- with -- withdrawn.

12 This P73 is detailing your activities the
13 morning of the homicide investigation, correct?

14 A. It is.

15 Q. That's the purpose of this P73.

16 A. You are correct.

17 Q. And so after you interviewed Emil Adams
18 and took his statement, presumably you -- you took
19 your notes and you -- and you put it into a written
20 statement.

21 A. Correct.

22 Q. Probably can't remember today whether
23 or not you actually called it in immediately or
24 not, right?

25 A. Oh, I called it in. I didn't do too

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1 good with the -- I would be good with typing
2 statements. I wasn't good with punching out
3 paragraphs for this.

4 Q. Okay. So the -- the -- the order of
5 events: You took Emil Adams' statement --

6 A. Correct.

7 Q. -- with very little information about
8 the case. You -- you wrote it -- you took your
9 notes and you wrote the written statement. Then
10 you called it in and transcribed it.

11 A. Correct.

12 Q. Then you learned that a suspect had
13 been found and a photo array was being put together
14 by somebody else, correct?

15 A. Again, this is quite a few years ago.
16 Just recently going through this, I do see mention
17 that there was a photo array and there was a photo
18 array that was made.

19 Q. Okay. And pursuant to your report, you
20 and Detective -- I can represent to you it was
21 Detective Vickerd did the photo array with Emil
22 Adams, correct?

23 A. I didn't make it.

24 Q. I understand. You -- I'm sorry.

25 A. Okay.

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1 Q. According to the reports, Detective
2 Vickerd created the photo array.

3 A. Okay.

4 Q. And then according to this P73, you
5 showed that photo array to Emil Adams, correct?

6 A. I believe it was Detective Vickerd.

7 Q. You don't believe you were even
8 present?

9 A. I'd have to see the documents. There's
10 a separate report for that.

11 Q. There is.

12 A. If I could see the document, I could
13 tell you --

14 Q. Well, I can show you in a minute, but
15 are you -- are you --

16 A. I don't remember. I would -- if I
17 could look at the document, I'd be able to --

18 Q. Hold -- hold on.

19 A. Okay.

20 Q. This says at the end of the statement a
21 photo array was shown to the witness.

22 Does that suggest to you, based on this
23 report, that you were present for that photo array?

24 A. I don't -- I would have to -- to be 100
25 percent sure for you, I would -- all I have to do

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1 is look at that form and I could tell you I'm a
2 hundred percent sure.

3 Q. Well, I will represent to you you're
4 not mentioned in that form. Does that mean that
5 you were not present, or it doesn't -- or it
6 doesn't suggest -- doesn't definitively state one
7 way or the other?

8 A. It doesn't -- I -- it would not
9 definitively say whether or not I was there.

10 Q. All right. But certainly this report
11 suggests you were involved in the process, correct?

12 A. Correct.

13 Q. All right. So whether you were present
14 for the entire photo array or not, you were
15 certainly involved.

16 A. Correct.

17 Q. And all of this is being done in the
18 homicide office, correct?

19 A. I don't know. Again, I didn't make the
20 photo array.

21 Q. All right.

22 A. I believe Detective Vickerd would be
23 the best one to answer that question.

24 Q. All right. Now, one basic -- so you
25 did know enough about the crime when you met with

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1 Emil Adams to know that it was a late-night
2 shooting at -- at a location you were aware of,
3 correct?

4 A. I worked in that precinct, yes.

5 Q. Okay. And that there were a number of
6 potential witnesses.

7 A. Correct.

8 Q. Now, one basic function -- withdrawn.

9 One basic task for a homicide detective,
10 when dealing with a homicide where there are
11 multiple witnesses, is to make sure that you are
12 segregating the witnesses when you're interacting
13 with them, correct?

14 A. Correct.

15 Q. So for example, there is no question,
16 although you probably don't remember it, that when
17 Emil Adams was -- between the time when Emil Adams
18 was being interviewed and when he was being shown a
19 photo array, he was segregated in the homicide
20 office.

21 A. He was.

22 Q. That would be a very important thing to
23 make sure happened, correct?

24 A. It did happen.

25 Q. Okay. No doubt in your mind.

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1 A. No doubt in my mind.

2 Q. There is no way that Emil Adams -- you
3 would allow Emil Adams to be contaminated, for
4 example, by other witnesses.

5 A. Correct.

6 Q. Now, if you'd take a look at page 47.
7 So this is Vickerd's P73.

8 A. All right.

9 Q. Basically that Vickerd -- you haven't
10 reviewed this in preparation for today?

11 A. I have never seen this until now.

12 Q. Okay. And it makes clear that Vickerd
13 put the photo array together, correct?

14 Just read the first paragraph, first
15 sentence.

16 A. I'm --

17 Q. I'm just asking you -- I'm asking --

18 A. I'm --

19 Q. Sir, I'm not asking you to read it.
20 I'm not going to -- I'm not going to prevent you
21 from reading it.

22 MR. RUSS: He's entitled to read it if he
23 wants to read it.

24 BY MR. BRUSTIN:

25 Q. All I'm asking you right now is whether

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1 or not this report indicates that Detective Vickerd
2 put the photo array together. First sentence.

3 MR. RUSS: Right, but he wants to review the
4 entire report, and that's his right.

5 MR. BRUSTIN: Well, it's actually -- he
6 should have reviewed it before, and it's going to
7 take my time for -- for him to review it, but
8 you're right.

9 BY MR. BRUSTIN:

10 Q. If you need to review it, go ahead and
11 review it.

12 MR. RUSS: Why should he have reviewed it
13 before?

14 MR. BRUSTIN: Because that's what -- I'm not
15 going to fight with you.

16 THE WITNESS: Detective Vickerd did make
17 this photo array.

18 BY MR. BRUSTIN:

19 Q. Okay. And it doesn't -- it doesn't
20 indicate one way or another whether or not you were
21 present for the photo array.

22 A. You are correct.

23 Q. You may have been; you may not have
24 been.

25 A. Correct.

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1 Q. What you know for sure is that in
2 between the time you -- you interviewed Adams and
3 this photo array, he would have been segregated,
4 correct?

5 A. Correct.

6 Q. And it appears that -- obviously, in
7 order to create a photo array, Vickerd must have
8 developed a suspect.

9 A. Absolutely.

10 Q. But you just didn't know anything about
11 it.

12 A. Correct.

13 Q. All right. And in fact, if you look at
14 your report, the statement, page 30 to 32 -- which
15 you did review for today, correct?

16 A. Yes, sir, I'm looking at it.

17 Q. Now, this is the -- this is your --
18 this is the statement you took from Emil Adams.

19 A. Yes, sir.

20 Q. And by the way, it looks like it's a
21 verbatim transcript.

22 A. What -- what do you mean by verbatim?
23 I'm sorry.

24 Q. It looks like you're -- it looks like
25 you're writing down all the words you asked him --

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1 all the questions you asked him and everything he
2 said, correct?

3 A. I typed it. I -- I would -- I would
4 formulate the sentence in my mind, type it, and
5 then ask it to him.

6 Q. Okay. And obviously, you had some
7 discussion with Emil Adams before and after this
8 statement was taken, correct?

9 A. Yes.

10 Q. Okay. And you understood, as you told
11 us, that to the extent there was anything
12 substantive or -- anything substantive that was
13 different or additional as to what he reported
14 here, you had an obligation to put it down,
15 correct?

16 A. You are correct.

17 Q. So, for example, if you provided him
18 any additional information about this crime or a
19 suspect either before or after, you, of course, had
20 an obligation to document that.

21 A. You are correct.

22 Q. And one of the things we've been told
23 is that it's very important -- by a detective --
24 it's very important to put the time when an
25 interview starts and the time when it ends,

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1 correct?

2 A. You are correct.

3 Q. And sometimes you did that, and
4 sometimes didn't, right?

5 A. You are correct.

6 Q. Is -- was that just -- is the absence
7 of a starting time here just an error?

8 A. It is an error. I was woke up. You
9 know, I -- I reported to the homicide squad at
10 two -- two o'clock in the morning.

11 Q. Okay. Well, I would -- I can represent
12 to you that the -- that almost all of your
13 interviews don't have a start time. Is there a
14 reason for that?

15 A. I have no idea.

16 Q. Okay. Now, my understanding -- correct
17 me if I'm wrong -- is that there -- there should be
18 a -- another version -- and Peter, maybe you can
19 help me with this.

20 Is -- there should be another version of
21 this report where there's an end time with a
22 picture of a clock on it?

23 A. I have no idea what you're talking
24 about.

25 Q. All right. So -- all right. Fair

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1 enough. So it's your understanding that there's no
2 start time and no end time on this report.

3 A. Yes.

4 Q. And that's just a mistake on your part.

5 A. It would be, yes.

6 Q. And you understand there's a variety of
7 reasons why it's important to put down the times
8 when an interview starts and ends, correct?

9 A. It's very important.

10 Q. And as you -- as you sit here today,
11 you have no explanation other than you just forgot
12 to do it.

13 A. That's correct.

14 Q. Because you had been woken up.

15 A. That's correct.

16 Q. Now, to the extent that you were -- I
17 take it that pursuant to the strict letter of the
18 rules and regulations as you understood it and your
19 training, to the extent that you were present for
20 the photo array, that should be in the report,
21 correct?

22 A. It was shown after the statement. It
23 should be in the report, yes.

24 Q. But sometimes that didn't happen. In
25 other words, there were times, as you recognize,

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1 where you might be present and it just wouldn't
2 make its way into the report, correct?

3 A. I -- I don't think on my particular way
4 I did things that that would happen, but on this
5 one, it was noted that he was shown the photo
6 array.

7 Q. And so -- but you understand the --
8 that the ID reports here -- and I can show them to
9 you -- were created by Vickerd.

10 A. Well, I -- I understand that, and I
11 agree with you.

12 Q. All right. But you're -- you recognize
13 that it's quite possible that although you don't
14 appear in that report, you could have been present.

15 A. That's correct.

16 Q. And certainly you were -- you were the
17 primary detective interacting with Emil Adams that
18 night, correct?

19 A. I was the detective interviewing him.

20 Q. And you understood, in reviewing your
21 report, that from the moment you interviewed him,
22 he was a potentially very important witness.

23 A. He was an important witness.

24 Q. All right. And it's clear from looking
25 through your Q&A that you don't know at this --

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1 withdrawn. Now, it's clear from your questions
2 and answers -- withdrawn.

3 It's clear from your questions here that you
4 do know some information about the crime, correct?

5 A. Yes.

6 Q. But as you've told us, you have no idea
7 at this point that Valentino Dixon is a suspect or
8 any suspect, correct?

9 A. You are correct.

10 Q. Now, as a trained, experienced
11 detective -- withdrawn.

12 As a trained, careful detective by 1991, one
13 of the things you're looking for when determining
14 the reliability and the credibility of an
15 eyewitness is their ability to describe what they
16 saw and heard.

17 A. You're correct.

18 Q. And you know from experience that
19 oftentimes witnesses are not perfect in their
20 descriptions, what they saw and heard.

21 A. You are correct.

22 Q. And you also knew by 1991 that
23 oftentimes or sometimes witnesses make mistakes
24 about what they think they saw.

25 A. Correct.

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1 Q. And so it was critically important to
2 vet them for their reliability.

3 A. Before they make their statement or
4 after their statement?

5 Q. After the statement.

6 A. It would -- it would be good to know
7 who they were and what they were involved with,
8 yes.

9 Q. And also what -- whether what they were
10 reporting to you -- withdrawn.

11 As you've told us already, you understand
12 that oftentimes witnesses don't give perfect
13 descriptions.

14 A. You are correct.

15 Q. What you're looking for, though, as a
16 detective in terms of determining reliability are
17 major differences in their descriptions as compared
18 to a suspect, correct?

19 A. Correct.

20 Q. So, for example, if you have a suspect
21 who is six foot six and the witness describes the
22 suspect as being five eight, that's the kind of
23 discrepancy that suggests they may not be reliable.

24 A. Again, it's all in the context of the
25 statement or the -- or the question. You know, it

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1 could be.

2 Q. That's the kind of -- maybe a fair way
3 to look at that is a red flag. Fair to say?

4 A. If it would present itself and it
5 pertained to the case, it would be, yes.

6 Q. People are not good at saying somebody
7 is six two as opposed to six foot, but usually
8 people are able to -- if they have a good
9 opportunity to see, they can tell the difference
10 between someone who's very tall and very short.

11 MR. RUSS: Objection to form. You may
12 answer.

13 THE WITNESS: Yes, you are correct.

14 BY MR. BRUSTIN:

15 Q. Same with size. If you have a suspect
16 who is extremely slender, 150 pounds, compared to
17 somebody who is 210 pounds, for example, those are
18 the kinds of differences you're looking for in
19 determining reliability, correct?

20 MR. RUSS: Objection to form. You may
21 answer.

22 THE WITNESS: Correct.

23 BY MR. BRUSTIN:

24 Q. If, for example, someone describes to
25 you, "The person who I saw committing this crime

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1 was a big, stocky person" and you know that the
2 person who you suspect to have committed the crime
3 was extremely slim, that's a red flag.

4 A. It would give me doubt, yes.

5 Q. That's the kind of thing you're looking
6 for as a detective when you're evaluating the
7 reliability of witnesses, correct?

8 A. Correct.

9 Q. Now, do you recall today -- withdrawn.
10 One of the things that Emil Adams has stated
11 in the past is that he was held at -- in the
12 homicide office for many hours that night.

13 Do you recall that?

14 MR. RUSS: Objection to form. You may
15 answer.

16 THE WITNESS: Well, obviously he was with us
17 for several hours, yes.

18 BY MR. BRUSTIN:

19 Q. Okay. Do you remember him being with
20 you for many hours even after the photo array?

21 A. No.

22 Q. Do you have an independent recollection
23 today, by the way, of interviewing Emil Adams?

24 A. Of interviewing him? Yes.

25 Q. You do. Okay. Not just from reading

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1 your report. You actually remember it.

2 A. I remember interviewing Emil Adams.

3 Q. Okay. You remember him --

4 A. And -- and then I also took a sworn
5 statement that he signed.

6 Q. I understand, but -- so just to be
7 clear --

8 A. Sure.

9 Q. -- you took a sworn statement. You
10 know how you did things, so that means that you're
11 telling us that's what -- that's how it happened,
12 but you actually, as you sit here today, can
13 picture in your mind sitting in a room with him.

14 A. Yes.

15 Q. Okay. Now, you would agree that, to
16 the extent Emil Adams gave any substantive
17 information about what he saw or heard to Detective
18 Lockwood or any other officer, there should be a
19 report in the file.

20 A. There should be.

21 Q. And by the way -- withdrawn.

22 Now, going back to your report on page 30,
23 although you -- you may have been a little tired,
24 you were doing your very best to get as detailed an
25 account of what Emil Adams saw and heard as you

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1 could, correct?

2 A. Yes.

3 Q. And in particular, you were -- you
4 were -- you were looking for things like as
5 detailed a description as possible about the
6 perpetrator that he saw, correct?

7 A. Yes.

8 Q. And you're looking for specific
9 characteristics, correct?

10 A. Yes.

11 Q. And I take it that you did a -- I think
12 you've already told us this, but you would have
13 done a preinterview before this, correct?

14 A. Correct.

15 Q. Where you talked generally about --
16 about what he saw and heard, correct?

17 A. Yes, sir.

18 Q. And the fact that there's no report of
19 that preinterview indicates that there was nothing
20 in that preinterview that you provided to him or
21 that he provided to you that was not part of this
22 statement, correct? Nothing substantive.

23 A. No.

24 Q. You agree with me.

25 A. I do.

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1 Q. All right. And you see on page 31
2 the -- about ten lines down: Can you tell me what
3 the person that had the TEC-9 looked like?

4 A. I see it.

5 Q. This is where he's describing the
6 person that he claims he saw commit the homicide,
7 correct?

8 A. Correct.

9 Q. One of the most important questions
10 you're asking.

11 A. Correct.

12 Q. And he gives a pretty detailed
13 description of the shooter, correct?

14 A. He does.

15 Q. Black male, heavysset, maybe about 20,
16 about six feet tall, correct?

17 A. Correct.

18 Q. Describing a -- he's describing a big
19 guy as the shooter, correct?

20 MR. RUSS: Objection to form. You may
21 answer.

22 THE WITNESS: I don't think he's a big guy.

23 BY MR. BRUSTIN:

24 Q. A black male, heavysset, right? He's
25 describing a -- by the way, heavysset is probably

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1 your interpretation of what he's telling you,
2 correct?

3 A. It's his -- it's his words.

4 Q. Oh, he used heavyset.

5 A. Yes.

6 Q. Okay.

7 A. I mean, this -- this is his response.

8 Q. Right. What does heavyset mean?

9 A. That he thought --

10 MR. RUSS: Objection to form. You may
11 answer.

12 THE WITNESS: That he thought the guy was
13 heavyset.

14 BY MR. BRUSTIN:

15 Q. What does heavyset mean?

16 MR. RUSS: Objection to form. You may
17 answer.

18 THE WITNESS: That he's not skinny.

19 BY MR. BRUSTIN:

20 Q. Yes, he's a big guy.

21 A. I don't think he's big.

22 MR. RUSS: Objection to form. You may
23 answer.

24 BY MR. BRUSTIN:

25 Q. It's the -- it's -- it's the opposite

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1 of skinny, right?

2 A. It is the opposite --

3 MR. RUSS: Objection to form. You may
4 answer.

5 THE WITNESS: It is the opposite of skinny.

6 BY MR. BRUSTIN:

7 Q. And if you didn't understand what he
8 meant, you would have asked a follow-up question,
9 right?

10 A. I would have done so, yes.

11 Q. By the way, there was no time limit on
12 this interview, was there?

13 A. No.

14 Q. You had plenty of time to ask all the
15 questions that you thought were important to --
16 that you thought were important to ask to help
17 identify the suspect, correct?

18 A. That's correct.

19 Q. And there's a -- there's a number of
20 reasons for this interview. You're -- one thing is
21 you're trying to identify a suspect, correct?

22 A. Yes.

23 Q. Another reason, though, is that you
24 understand this is a person who's saying he's an
25 eyewitness.

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1 A. Correct.

2 Q. And you are doing everything in your
3 power to ascertain his reliability as an
4 eyewitness, correct?

5 MR. RUSS: Objection to form, you may
6 answer.

7 THE WITNESS: Correct.

8 BY MR. BRUSTIN:

9 Q. Because the -- ultimately, any criminal
10 suspect has a right to that, correct?

11 A. Correct.

12 Q. It's your job to ascertain whether the
13 description he gives, for example, actually matches
14 the suspect, correct?

15 A. Correct.

16 Q. And it's your job to ascertain whether
17 or not this eyewitness actually was in a position
18 to observe the suspect, correct?

19 A. Correct.

20 Q. And it's your job to ascertain whether
21 or not this witness had anything that would impede
22 his ability to make an identification, correct?

23 A. Correct.

24 Q. Was he drunk, was he high, right?

25 A. Correct.

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1 Q. And by the way, one of the basic things
2 you expect when you have young eyewitnesses for a
3 shooting that happened late at night at a popular
4 restaurant where everyone goes after partying all
5 night is whether or not they're under the influence
6 of drugs or alcohol, correct?

7 A. Correct.

8 Q. That's about as basic as it gets,
9 right?

10 A. Yes.

11 Q. And you understood that depending on
12 how much alcohol or drugs a witness consumed, that
13 could affect their ability to make an
14 identification, a reliable identification.

15 A. Correct.

16 Q. Why didn't you ask him any questions
17 about what he drank or smoked or took?

18 A. I didn't think that he was intoxicated
19 or high. He appeared in a normal fashion. He
20 spoke like we're -- we're talking today.

21 He seemed like a pretty credible young kid.
22 I did not think -- I couldn't smell any marijuana.
23 I didn't think he was intoxicated, and I didn't
24 think he was high at all.

25 Q. Okay. By the way, do you remember all

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1 this today?

2 A. Yes, I do.

3 Q. You're not just making it up?

4 MR. RUSS: Objection to form. Don't answer.

5 BY MR. BRUSTIN:

6 Q. You know we're accusing you of lying,
7 right? I mean, there's no bones about it. I -- we
8 are claiming that you fabricated evidence in this
9 case, right?

10 A. That I fabricated his words?

11 Q. We're -- we're claiming that you
12 fabricated evidence in the case. You understand
13 that, right?

14 A. I -- I do understand that, yes.

15 Q. All right. And as you sit here under
16 oath, you're telling me you remember observing that
17 this person, Emil Adams, in 1991 didn't seem drunk
18 or high to you.

19 A. There's a reason for that. I don't
20 take statements from people that are intoxicated or
21 high. I don't do that. So he would not have
22 appeared that way.

23 Q. Well, one way -- one way to ascertain
24 whether somebody's intoxicated or high is to ask
25 them, "Have you done any -- have you -- have you

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1 had anything to drink," right?

2 A. That's one of the ways.

3 Q. And sometimes people are honest about
4 it, right?

5 A. Yes.

6 Q. By the way, you know from your work as
7 a police officer, as a homicide detective in -- in
8 Buffalo, that as a general matter, particularly in
9 communities of color, there was not a lot of trust
10 in police officers. Is that fair to say?

11 A. It is.

12 Q. And that -- whether they were witnesses
13 or suspects, oftentimes you understood that the
14 people you came into contact with didn't trust you.

15 A. You're correct.

16 Q. And that for that -- and for that
17 reason and others, they didn't always tell you the
18 truth.

19 A. You're correct.

20 Q. And you understood that one reason is
21 that because they didn't believe you were actually
22 looking out for their best interests, right?

23 A. It's one of the reasons.

24 Q. In other words, you understood that
25 oftentimes even witnesses who wanted to tell the

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1 truth were afraid to tell you the truth because
2 they didn't trust you.

3 A. That's sometimes one of the reasons.

4 Q. Now, you arrested Valentino Dixon,
5 right?

6 A. Yes, sir, I did.

7 Q. Fair to say at the time -- at the time
8 when you arrested him, Valentino Dixon could only
9 be described as extremely thin.

10 A. He's thin.

11 Q. 150 pounds soaking wet, fair to say?

12 A. That's -- that's about his weight, yes.

13 Q. He was a very thin-framed man.

14 A. He would be thin.

15 Q. Skin and bones, right?

16 A. I don't think he was skin and bones,
17 but he was thin.

18 Q. And you also interviewed Lamarr Scott.

19 A. Correct.

20 Q. And you understand that Lamarr Scott
21 played linebacker for his high school football
22 team, right?

23 A. No, I don't --

24 MR. RUSS: Defensive end.

25 BY MR. BRUSTIN:

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1 Q. Defensive end.

2 A. No, I don't know that.

3 Q. All right.

4 A. That's the first I've heard of it.

5 Q. And you heard it wrong from me. You --
6 he was a defensive end. Claimed to be -- claimed
7 to be pretty good.

8 In any case, you remember him as a tall,
9 heavyset man, correct?

10 A. I remember he was about six foot and
11 stocky.

12 Q. Big guy. Could have been 220.

13 A. I don't know about that. I may --
14 might say about 190, 195, but not -- not 220.

15 Q. No?

16 A. I'm just guessing.

17 Q. All right. But certainly he fit the
18 bill as a big, heavyset guy, fair to say?

19 A. You are correct.

20 Q. And you can -- and you can tell from
21 the picture of Valentino Dixon -- I can show it to
22 you, but I don't think I need to.

23 He looks extremely thin in the picture.

24 A. You keep on --

25 MR. RUSS: Objection to form. You may

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1 answer.

2 THE WITNESS: I don't think he's extremely
3 thin. I think he's thin.

4 BY MR. BRUSTIN:

5 Q. All right. You can tell that from his
6 picture. He has a thin face.

7 A. He's thin.

8 MR. RUSS: Objection to form. You may
9 answer.

10 BY MR. BRUSTIN:

11 Q. Now, another thing that you always want
12 to do when you're interviewing an eyewitness is to
13 ascertain and then to follow up with other
14 potential eyewitnesses, correct?

15 A. We try to, yes.

16 Q. That's one of your main jobs, correct?

17 A. It's one of our jobs, yes.

18 Q. All right. And if you take a look at
19 page 30 -- first of all, why didn't you attempt to
20 ascertain exactly where Emil Adams was standing and
21 whether or not he had a good opportunity to view?

22 MR. RUSS: Objection to form. You may
23 answer.

24 THE WITNESS: I just didn't ask that
25 question.

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1 BY MR. BRUSTIN:

2 Q. Well, we've already established that
3 that's a basic question that a conscientious,
4 careful investigator like you would ask, correct?

5 MR. RUSS: Objection to form. You may
6 answer.

7 THE WITNESS: Correct. I made a mistake.

8 BY MR. BRUSTIN:

9 Q. All right. So you -- by the way, as
10 far as you understood at the time you were
11 interviewing Emil Adams, he was the first
12 eyewitness being interviewed in this homicide,
13 correct?

14 A. I thought he was, yes.

15 Q. All right. And yet you made a mistake
16 by not asking where he was standing at the time he
17 allegedly observed the killer?

18 A. I think in his statement, he mentions
19 what side of the street he was on.

20 Q. Well, as a trained homicide
21 investigator, you understand that there are many
22 more questions you need to ask to ascertain whether
23 he had a good opportunity to view, correct?

24 A. I could have, yes.

25 Q. Well, you understand that that's

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1 important, right?

2 A. It is important, counselor.

3 Q. It's important to know how far away he
4 is, right?

5 A. Yes, that's correct.

6 Q. It's important to know what is in
7 between him and the crime that's being committed?

8 A. That's correct.

9 Q. It's important to know where his focus
10 is?

11 A. You're correct.

12 Q. It's important to know what the
13 lighting is like?

14 A. You're correct.

15 Q. It's important to know if there are
16 cars in the way?

17 A. Yes.

18 Q. Basic things that any trained homicide
19 investigator should ask, correct?

20 A. Correct.

21 Q. That you forgot to ask.

22 A. I did.

23 Q. Now take a look at -- all right.

24 If you look at the middle of the page where
25 his -- his -- there's a big paragraph with his

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1 answer. Do you see that?

2 A. On page 30?

3 Q. Yes.

4 A. Yes, I see that.

5 Q. Then it says: Then I was standing by a
6 truck talking with some girls.

7 A. Correct.

8 Q. And for a trained detective, what that
9 screams to you is more witnesses, right?

10 A. Could have been a car that was parked
11 there. I don't know. These are his words.

12 Q. Oh, I understand they're his words, but
13 when he -- when he says, "When I observed the
14 crime, I was standing talking with some girls,"
15 what that says to a trained detective is perhaps
16 those girls are also witnesses, right?

17 A. You said truck just a few minutes ago,
18 I'm sorry. "I was standing by a truck."

19 Q. "Talking with some girls."

20 A. Okay, but that's not the way you
21 first --

22 Q. Sir.

23 A. -- framed the question.

24 MR. RUSS: Okay. Try again.

25 BY MR. BRUSTIN:

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1 Q. If you read this, what he's suggesting
2 here -- you don't know, because you didn't ask, but
3 what he's suggesting is those girls might be
4 witnesses, too, right?

5 A. I believe he mentions the girls' names
6 somewhere in the statement.

7 Q. Okay. And so it would be very -- very
8 important to follow up with those girls, correct?

9 A. Yes.

10 Q. And it would be your job, since you
11 took this statement, to either follow up with those
12 girls yourself or ensure that somebody else did,
13 correct?

14 A. Correct.

15 Q. Any explanation why that never
16 happened?

17 A. No.

18 Q. Just another mistake?

19 A. No. On follow-up investigations, we
20 were a little bit overwhelmed. I mean, we were
21 getting two, three shootings a night that we
22 responded to.

23 Q. Were there two or three shootings that
24 night?

25 A. I'm trying to explain to you exactly

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1 why on -- on -- on the follow-ups.

2 Sometimes we would get a suicide that we had
3 to investigate, a lawful death that someone became
4 deceased, an industrial accident. We have to
5 investigate those.

6 But most of the time then when we responded,
7 sometimes our follow-up wasn't perfect.

8 Q. Got you.

9 A. We did the best we could with the
10 manpower that we had.

11 And don't forget, this was turned over to
12 the District Attorney's office, and they also
13 enhance investigations.

14 Q. Okay. So you remember Emil Adams not
15 being high, but I take it you don't remember there
16 being any other shootings that night, right?

17 A. I was called in on one. I was asleep.
18 This was the one that I responded to.

19 Q. Okay.

20 A. I can't answer that question for you.

21 Q. So any mistakes that you made in the
22 Emil Adams interview we can chalk up to you being
23 sleepy.

24 MR. RUSS: Objection to form.

25 THE WITNESS: That's --

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1 MR. RUSS: You may answer.

2 THE WITNESS: That's not fair to say.

3 BY MR. BRUSTIN:

4 Q. Okay. So -- all right. Take a look at
5 page -- the first page again, 30, and he is
6 mentioning somebody named Mario to you, correct?

7 A. Yes, sir.

8 Q. As being involved in the altercation.

9 And then you ask him: Do you know Mario?

10 And he says: Yes, I do.

11 What should the next question have been?

12 A. What does Mario look like?

13 Q. How do you know Mario? What's your
14 relationship with him?

15 A. I didn't ask him that.

16 Q. I know you didn't. My question is why
17 not.

18 A. I have no idea.

19 Q. And by the way, what I'm talking about
20 right now are very basic questions for a detective,
21 right?

22 A. Yes.

23 Q. How do you know the person that was
24 involved in the shooting, right? Was he your
25 friend? Did you go to school with him? Did he

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1 carry a gun?

2 Basic questions any trained homicide
3 investigator asks, right?

4 MR. RUSS: Objection to form. You may
5 answer.

6 THE WITNESS: Yes, I would.

7 BY MR. BRUSTIN:

8 Q. Okay. And by the way, you had plenty
9 of time to do this interview. Nobody was standing
10 over your shoulder saying you got to hurry, right?

11 A. That's correct.

12 Q. Nobody -- you have as much time as you
13 need to do this interview.

14 A. Correct.

15 Q. All right. Now, he describes the
16 shooter at page 31 as black male, heavysset, six
17 foot tall, maybe about 20 years old, had a white
18 shirt and a white hat on, right?

19 A. Where are we in the statement, please?

20 Q. 31.

21 A. I'm on 31. Where -- whereabouts?

22 Q. About eight lines down.

23 A. Okay. I see that.

24 Q. That's what he describes, right?

25 A. Yes.

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1 Q. As you've already told us, one of the
2 most important questions you ask in the interview,
3 correct?

4 A. Correct.

5 Q. And as you already told us, you had a
6 very good memory at the time, correct?

7 A. Correct.

8 Q. Now take a look at page 197.

9 A. 197.

10 Q. Yes.

11 MR. RUSS: Same prefix? BPD?

12 MR. BRUSTIN: Yes, please.

13 THE WITNESS: I'm on 197.

14 BY MR. BRUSTIN:

15 Q. All right. Now, 197 is your interview
16 of Lamarr -- so it starts on 196, actually.

17 A. That's not an interview.

18 MR. RUSS: It's not -- we don't have it.

19 THE WITNESS: 197 is a sworn statement.
20 197. I think you're on a different page. Excuse
21 me.

22 MR. BRUSTIN: Maybe we've got a -- you've
23 got a bad -- we have another one if you want to
24 check it out.

25 MR. RUSS: 196. Go ahead. I'll look on.

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1 BY MR. BRUSTIN:

2 Q. Okay. We'll see if we can find you
3 one. In any case, this is the sworn statement that
4 you took from Lamarr Scott, correct?

5 A. Yes, sir.

6 Q. And again, the same -- we're going to
7 go over this a little bit later, but the same rules
8 to the extent you -- you obviously did a
9 preinterview with Lamarr Scott, correct?

10 A. Yes.

11 Q. To the extent that you said anything to
12 him or he said anything to you before or after this
13 sworn statement, you had an obligation to document
14 it, correct?

15 A. You're correct.

16 Q. So every -- every piece of relevant
17 information that you provided to him and that he
18 provided to you is contained in this sworn
19 statement, correct?

20 A. Correct.

21 Q. And if you'd take a look on the second
22 page --

23 A. 197?

24 Q. Yes.

25 A. Okay.

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1 Q. You've already told us that when you
2 saw him, you recognized that he was six foot or
3 taller and heavyset, correct?

4 A. Correct.

5 Q. And you asked him what he was wearing
6 that night, and he said, about five lines down,
7 white tee shirt, white hat, right?

8 A. Yes.

9 Q. And obviously, as soon as you -- when
10 you interviewed Lamarr Scott, you recognized at
11 some point -- withdrawn.

12 Certainly when Emil Adams identified
13 Valentino Dixon, within hours of him describing the
14 shooter as being heavyset, you recognized as a
15 trained detective that Valentino Dixon was thin and
16 not heavyset, correct?

17 A. Yes.

18 Q. And that, obviously, was a red flag for
19 you, correct?

20 A. It was.

21 Q. And obviously, that was something that
22 you were discussing with other officers at the
23 time.

24 A. I didn't discuss that with other
25 officers at the time.

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1 Q. It was in your mind, but you didn't
2 tell anybody.

3 A. That's correct.

4 Q. All right. And so -- but it was -- it
5 was something that you noticed.

6 A. Correct.

7 Q. All right. And so when Lamarr Scott
8 came in four days later and not only was he -- did
9 he fit the physical description that Emil -- Emil
10 Adams had given of being -- about how tall he was
11 and being heavyset, he was wearing the same clothes
12 that Emil Adams described, correct?

13 A. I don't know.

14 Q. Well, I just -- you just -- you just --
15 I just showed you the two.

16 A. I -- I know that, but you're showing me
17 Scott's. I'll go back and look at --

18 Q. Well, what was --

19 A. -- Emil Adams where he -- he gives the
20 clothing.

21 Q. Well, what he said was a white tee
22 shirt and white hat.

23 A. Correct.

24 Q. And so obviously, as a trained
25 detective, when Lamarr Scott came in and told you,

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1 "It was me who did the shooting and not Valentino
2 Dixon," you made the connection, "Holy cow, he fits
3 the description that the eyewitness I interviewed
4 gave me."

5 A. There's one --

6 MR. RUSS: Objection to form. You may
7 answer.

8 THE WITNESS: Okay. There's one small
9 portion that you're missing.

10 The white hat that you're talking about I
11 don't remember him wearing when he came in or when
12 he was brought in; however, the white hat that --
13 that the witness described had a blue or a black
14 rim around it. It wasn't a white hat.

15 I don't know what -- I can't remember what
16 hat, but I didn't think that they were the same.

17 BY MR. BRUSTIN:

18 Q. Okay. So in other words, you went
19 through the process that I'm just describing to you
20 in your head.

21 In other words, you recognized -- you
22 recognized, "Yes, in fact, Emil Adams described the
23 guy I'm looking at except for the difference in the
24 hat," correct?

25 A. Correct.

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1 Q. And so the combination of Valentino
2 Dixon -- withdrawn.

3 The combination of Emil Adams describing
4 someone who was much smaller (sic) than Valentino
5 Dixon, which you noticed, you said, at the time --

6 A. Correct.

7 Q. That combined with Emil Adams
8 describing even more precisely Lamarr Scott --
9 Lamarr Scott, who was coming in and confessing, was
10 an even bigger red flag, correct?

11 MR. RUSS: Objection to form. You may
12 answer.

13 THE WITNESS: It was a flag, yes.

14 BY MR. BRUSTIN:

15 Q. All right. So in other words, when you
16 interviewed Emil -- when you interviewed Lamarr
17 Scott, you recognized in your mind, "Wow, I had a
18 concern that his description didn't match Valentino
19 Dixon when he ID'd him in the photo array, and now
20 I see that Emil Adams was actually describing, in
21 many respects, the person who's confessing in front
22 of me," correct?

23 MR. RUSS: Objection to form. You may
24 answer.

25 THE WITNESS: I had some reason.

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1 BY MR. BRUSTIN:

2 Q. All right. And before we take a lunch
3 break, you -- please explain to us why those
4 concerns and -- and that -- those observations
5 appear nowhere in the police file.

6 A. That's because of the fact that
7 Assistant District Attorney Christopher Belling
8 came over, reviewed all the file at that particular
9 time. He looked at all the evidence that we had
10 collected, and he had discussed with us to -- to
11 let him go and that he had more information that he
12 was working on.

13 I don't know whether it was in the Grand
14 Jury or not, but it was the District Attorney's
15 request that we not arrest him for it, but he knew
16 about it. There is -- there is no doubt in my mind
17 that he would have to know about that -- that white
18 hat and the description would match the description
19 prior and also the white hat.

20 But the white hat wasn't definitive. It's
21 not a real big -- it's a big thing now --

22 Q. All right.

23 A. -- but it wasn't definitive.

24 Q. Yes, I don't know what you're talking
25 about, but in any case, the --

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1 A. It wasn't the same type of hat.

2 Q. Sure.

3 MR. RUSS: Wait for the question.

4 BY MR. BRUSTIN:

5 Q. So first of all, you understand that
6 you were the person in this case, of everybody else
7 in the case, who was in the very best position to
8 make the connection between Emil Adams and the
9 description of Lamarr Scott, correct?

10 A. Correct.

11 MR. RUSS: Objection to form. You may
12 answer.

13 THE WITNESS: Correct.

14 MR. RUSS: You did answer.

15 BY MR. BRUSTIN:

16 Q. You interviewed Emil Adams.

17 A. Correct.

18 Q. You interviewed Lamarr Scott.

19 A. Correct.

20 Q. You observed the photo array of
21 Valentino Dixon.

22 A. I don't remember that.

23 Q. You -- you at least saw the picture of
24 Valentino Dixon.

25 A. I don't remember that.

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1 Q. You just told us that you made the
2 connection at the time. You just -- under oath you
3 just told us that you recognized --

4 MR. RUSS: You never asked him if he saw the
5 picture of Valentino Dixon.

6 MR. BRUSTIN: Let me finish the question.

7 BY MR. BRUSTIN:

8 Q. You just told us that you remember, at
9 the time you were interviewing Emil Adams and the
10 time of the photo array, you made the connection
11 that Emil Adams' description didn't match Valentino
12 Dixon in size, correct?

13 MR. RUSS: Objection to form. You may
14 answer.

15 THE WITNESS: I -- I'm very confused by your
16 whole entire question.

17 BY MR. BRUSTIN:

18 Q. All right.

19 A. You're talking about a photo array. I
20 did not see the photo array. I do know that there
21 was a photo array shown --

22 Q. All right.

23 A. -- by Detective Vickerd.

24 Q. Okay. So now you're testifying that
25 you didn't see the photo array.

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1 A. I'm -- I'm not following you at all,
2 and I -- I hate to say this again, but when you say
3 if I saw the photo array, there's two parts to the
4 photo array. There's the actual affidavit and the
5 physical photo array itself.

6 I don't ever remember seeing the photo
7 array. That would be the pictures.

8 Q. All right. You just told us, sir,
9 under oath that you may well have been present when
10 that photo array was shown --

11 A. I may have been.

12 Q. I'm not done with my question.

13 A. Well, then, you can finish your
14 question.

15 Q. So you may -- you may well -- this is
16 better.

17 A. It's really good for you.

18 Q. This is the real -- the real -- the
19 real Detective Stambach.

20 MR. RUSS: All right, look. If you want to
21 ask a question, ask a question. If you want to
22 argue, we're not doing that.

23 BY MR. BRUSTIN:

24 Q. Is this how you -- okay. Is this how
25 you react when you get angry?

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1 MR. RUSS: Objection to form. Don't answer.

2 BY MR. BRUSTIN:

3 Q. All right. You just told us that you
4 may well have been present when the photo array was
5 shown to Mr. -- Mr. Adams, correct?

6 A. Could you repeat that question for me?

7 Q. You've told us repeatedly under oath --

8 A. Could she repeat the question to me,
9 please?

10 Q. I'm repeating it to you.

11 A. Please do so.

12 Q. You just told us that you may well have
13 been present when the photo array of -- of
14 Mr. Dixon, including Mr. Dixon, was shown to
15 Mr. Adams. Do you recall that?

16 A. I do recall that, yes.

17 Q. Are you now changing that testimony and
18 claiming that you never saw that photo array?

19 A. No, I'm not changing it. It's
20 different.

21 Q. All right. You've also told us that
22 the night of the 10th, you made the connection in
23 your mind that Valentino Dixon did not match the
24 description that Emil Adams had given in terms of
25 size, correct?

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1 A. You're correct.

2 Q. And you've also told us that you
3 recognized even further, when you interviewed
4 Lamarr Scott, that in many respects, the
5 description Emil Adams gave matched Lamarr Scott,
6 correct?

7 A. Correct.

8 Q. And you were in the best position to
9 make those observations of all of the detectives on
10 the case, correct?

11 MR. RUSS: Objection to form. You may
12 answer.

13 THE WITNESS: I would have an opinion on it,
14 yes.

15 BY MR. BLENK:

16 Q. All right. And as you sit here today,
17 you have no recollection of raising that issue with
18 DA Belling, correct?

19 MR. RUSS: Objection to form. You may
20 answer.

21 THE WITNESS: I don't remember.

22 BY MR. BRUSTIN:

23 Q. Fair to say that to the best of your
24 recollection, you never discussed that with DA
25 Belling.

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1 A. I don't remember.

2 Q. You certainly have no memory of doing
3 it, correct?

4 A. I don't remember.

5 Q. Okay.

6 MR. BRUSTIN: I think now is a good time for
7 a lunch break.

8 (A luncheon recess was then taken at
9 1:08 p.m.)

10 (On the record: 2:07 p.m.)

11 BY MR. BRUSTIN:

12 Q. Okay. Detective Stambach, you've
13 already told us that you were responsible for Emil
14 Adams during the early morning hours of the night
15 of the shooting, the morning after the shooting,
16 correct?

17 A. Yes, sir.

18 Q. And at all times, he was segregated in
19 the homicide office, correct?

20 A. That's correct.

21 Q. And at all times, you had eyes on him
22 during those hours when you were interviewing him
23 and when he was shown photo arrays, correct?

24 A. No, I would say when he was discharged
25 from either the photo array or the sworn statement,

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1 he was placed somewhere for transport.

2 I don't know who transported him, and I
3 don't know what time he left.

4 Q. All right. Take a look at page 25 of
5 your report. Page 25 of your report.

6 MR. RUSS: Of Exhibit 2?

7 MR. BRUSTIN: Yes, please.

8 THE WITNESS: I'm -- I'm sorry, what page
9 are you --

10 BY MR. BRUSTIN:

11 Q. Page 25.

12 A. All right.

13 Q. And you see the paragraph beginning at
14 the end of the statement?

15 A. Yes, sir.

16 Q. Okay. And with this statement here,
17 you are describing the exact words that Emil Adams
18 spoke when he made the identifications, correct?

19 You quote him.

20 A. That is correct.

21 Q. All right. And that suggests that you
22 at least were close enough to hear those words,
23 correct?

24 A. Yes, sir.

25 Q. Another indication that you were

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1 present for the photo array, correct?

2 A. Well, again, it could have been from
3 the writing on the photo array. He might have --
4 that would be his response that's in the affidavit,
5 I believe.

6 Q. All right. But the photo array surely
7 would have taken place in the homicide office,
8 correct?

9 A. Oh, yes, it would have.

10 Q. And you were right there.

11 A. I was there that day.

12 Q. All right. And you were responsible --
13 you were obviously interested in what Emil Adams
14 was doing, the person you just interviewed,
15 correct?

16 A. Yes, sir.

17 Q. So certainly either -- whether you
18 were -- lots of reason to believe that you observed
19 the photo array, correct?

20 A. I -- again, I'm not 100 percent sure on
21 that. I'm sorry.

22 Q. But lots of evidence suggesting that
23 you did, correct?

24 A. Yes, sir.

25 Q. And one of the reasons -- by the way,

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1 Emil Adams, you understood, both based on your
2 interview and what you learned afterward, was an
3 important witness in this case, correct?

4 A. Yes, he was.

5 Q. He didn't have any direct ties to -- or
6 any -- any familial ties to any of -- either of the
7 groups involved in the shooting, correct?

8 A. I don't know that.

9 Q. You told us he appeared to be not
10 intoxicated.

11 A. Yes, sir.

12 Q. Appeared to be a credible eyewitness.

13 A. Yes, sir.

14 Q. As important a witness as there was in
15 this case, correct?

16 A. Yes, sir.

17 Q. And so one of the reasons why -- one of
18 the reasons why you are convinced that Emil
19 Adams -- withdrawn.

20 One of the reasons why you are convinced
21 today that Valentino Dixon shot and killed Torri
22 Jackson is because of the positive ID that Emil
23 Adams made, correct?

24 A. Yes, sir.

25 Q. And you understand that, assuming

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1 Lamarr Jackson shot -- let me make some assumptions
2 here. Assume for a minute that Lamarr Scott
3 shot -- was the shooter here.

4 A. I'm sorry, I didn't want to correct
5 you. It is Lamarr Scott.

6 Q. Yes, I'm terrible with names, but now I
7 got it.

8 A. That's okay.

9 Q. Lamarr Scott. Assume for a minute that
10 Lamarr Scott was the actually the shooter, okay?

11 A. One of the shooters.

12 Q. Well, your investigation uncovered
13 there was only one shooter, correct?

14 A. I think in Mr. Emil Adams, there's a
15 mention of a -- a second shooter in the middle of
16 my page.

17 Q. Well, you understand that the
18 prosecution went forward on the theory that the
19 only person who shot was Valentino Dixon.

20 A. I don't know that, I'm sorry.

21 Q. As you sit here today, you don't even
22 know that.

23 A. I do not -- I didn't -- I didn't
24 testify in the trial. I don't know what the
25 prosecution did.

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1 Q. Fair to say that you are aware of
2 absolutely zero follow-up of a second person being
3 the shooter.

4 MR. RUSS: Objection to form. You may
5 answer.

6 THE WITNESS: I -- I'm not sure. I -- I
7 don't know --

8 BY MR. BRUSTIN:

9 Q. Sir, as you sit here --

10 A. -- what the DA did -- I don't know what
11 the DA did after we arrested Valentino Dixon.

12 Q. As -- as you sit here today -- well,
13 you did a number of investigative steps after you
14 investigated Valentino Dixon, correct?

15 A. There were several things that I did
16 several days after.

17 Q. All right. You -- you -- as far as you
18 know, no steps were taken to investigate whether
19 either of the Jackson brothers had a gun or whether
20 there was a -- withdrawn.

21 As far as you know as you sit here today,
22 you are not aware of any steps that were taken to
23 follow up on the information that Adams gave you of
24 a second gun by the group of people who were
25 shooting, correct?